

EXHIBIT 4

Defendants' Motion to Dismiss
League of Conservation Voters v. Trump
No. 3:17-cv-00101-SLG



United States Department of the Interior

BUREAU OF OCEAN ENERGY MANAGEMENT

WASHINGTON, DC 20240-0001

JAN 17 2017

Memorandum

To: Secretary

Through: Janice M. Schneider *Jan Schneider*
Assistant Secretary - Land and Minerals Management

From: Walter D. Cruickshank *Walter D. Cruickshank*
Acting Director

Subject: Record of Decision and Approval of the 2017-2022 Outer Continental Shelf Oil and Gas Leasing Program

The Bureau of Ocean Energy Management (BOEM) requests your approval of the lease sale schedule described in the 2017-2022 Outer Continental Shelf (OCS) Oil and Gas Leasing Proposed Final Program (PFP) (Attachment 1) published on November 18, 2016, and hereby incorporated by reference.

Under Section 18 of the OCS Lands Act (OCSLA), the Secretary of the Interior is responsible for preparing and maintaining, consistent with the principles specified in Section 18, a schedule of proposed OCS oil and gas lease sales determined to "best meet national energy needs for the 5-year period following its approval or re-approval."

On November 18, 2016, the PFP was submitted to the President and Congress, as required by Section 18(d)(2) of the OCSLA. The Outer Continental Shelf Oil and Gas Leasing Program (2017-2022 Program) may be approved after 60 days from this date. BOEM also published a Final Programmatic Environmental Impact Statement (Programmatic EIS) (Attachments 2 and 3), pursuant to Section 102(2)(C) of the National Environmental Policy Act (NEPA). The Programmatic EIS analyzes four alternatives for the 2017-2022 Program and the reasonably foreseeable environmental consequences of each alternative.

Alternative A (Proposed Action) in the Final Programmatic EIS consists of leasing in four program areas, whereas Alternative D (No Action) includes no leasing in the 2017-2022 Program. Alternative B excludes leasing or applies programmatic mitigation in Environmentally Important Areas. Alternative C (Reduced Proposed Action), identified as the preferred alternative in the Final Programmatic EIS, contemplates the exclusion of one or more of the program areas. The PFP proposes lease sales in the Gulf of Mexico and Cook Inlet (Alaska) Program Areas, and excludes the Beaufort Sea Program Area and the Chukchi Sea Program Area from the 2017-2022 Program. The environmental impacts that could result from the lease sales included in the PFP were analyzed as part of Alternative C.

BOEM has identified Alternative D (No Action) from the Final Programmatic EIS as the environmentally preferable alternative. Section 2.9 and Section 4.5 of the Final Programmatic EIS support the identification of Alternative D as the environmentally preferred alternative in the Program areas analyzed. However, Alternative D does not meet the purpose and need for action as stated in the Final Programmatic EIS as it leaves a void in planning for national energy needs.

The selection of the 2017-2022 Program as described in the PFP and Section 2.8 of the Final Programmatic EIS (Alternative C – Preferred Alternative) is based on a balancing of national policy considerations as outlined in Chapter 2 of the PFP and explained throughout the PFP. These considerations arise from the statutory directive to best meet national energy needs, while weighing the factors identified in Section 18(a) of OCSLA. With an oil price of \$40 per barrel, the 2017-2022 Program makes available approximately 70 percent of the oil and gas resources that are economically recoverable and nearly one half of the estimated undiscovered technically recoverable OCS oil and gas resources.

BOEM also considered the application of programmatic mitigation measures in the Final Programmatic EIS, including some that do not affect the size, timing, and location of the proposed lease sales. The following measures avoid or minimize adverse effects in the Gulf of Mexico and Cook Inlet Program Areas, respectively: 1) Protection of Biologically Sensitive Underwater Features in the GOM (Final Programmatic EIS, Section 2.6.1.3) and 2) Alaska Conflict Management Plan (Final Programmatic EIS, Section 2.6.2). BOEM recommends adoption of these two landscape-scale mitigation measures and requests your approval at the program stage because of their comparative importance and basis in longstanding applications with proven efficacy in the respective OCS regions.

Alternative B in the Final Programmatic EIS also considers the exclusion of Beluga Whale Critical Habitat in the northernmost part of Cook Inlet Program Area. Although BOEM is not recommending this exclusion at this time, the Final Programmatic EIS recognizes the seasonal importance of that critical habitat area to beluga whales. In December 2016, BOEM completed the Cook Inlet Lease Sale 244 Final EIS in which BOEM considers seasonal restrictions on seismic surveys and exploration drilling in the Cook Inlet Beluga Whale Critical Habitat area as part of its preferred alternative. BOEM recommends a more detailed lease sale analysis of this seasonal restriction in the EIS for the proposed Cook Inlet Lease Sale 258 in the 2017-2022 Program.

The Final Programmatic EIS also discusses additional mitigation measures that have been historically applied at the lease sale stage to avoid or minimize environmental harm (see Appendix I). Adopting all the mitigation measures in Appendix I at the Program stage of the planning process is impracticable because most measures are developed for and individually applied to specific circumstances associated with each lease sale offering and subsequent site-specific plan approvals. However, while most of these site- or resource-specific mitigation measures are not adopted at the Program stage, they should be considered, and if applied, monitored for compliance, as appropriate, during subsequent stages. Additional specific mitigation measures may also be developed and applied, as appropriate.

At the conclusion of the 60-day period that commenced upon submission of the PFP to the President and Congress, BOEM recommends that you approve the 2017-2022 OCS Oil and Gas Leasing Program as set forth in the PFP issued on November 18, 2016, with the addition of the two programmatic mitigation measures stated above. Moreover, BOEM recommends you direct the Bureau to analyze a seasonal restriction on seismic surveys and exploration drilling for Cook Inlet Lease Sale 258, in order to mitigate the site- and seasonally-specific potential for impacts to beluga whales, as broadly recognized in the Final Programmatic EIS, Section 2.1.10.

Secretarial Decision

My approval of this memorandum constitutes the decision to proceed as described in the PFP, which schedules 11 potential oil and gas lease sales, one sale in the Cook Inlet (Alaska) Program Area and 10 sales in the GOM Program Area. The Cook Inlet sale would include the northern portion of the Cook Inlet Planning Area, which is adjacent to areas of oil and gas development in State waters. It would be scheduled for 2021. The GOM sales would be region-wide and include unleased acreage not subject to moratorium or otherwise unavailable, in the Western, Central, and Eastern Gulf of Mexico. BOEM recommends this region-wide approach to provide greater flexibility to industry, including more frequent opportunities to bid on rejected, relinquished, or expired OCS lease blocks. The 10 GOM sales are scheduled to occur over the 5 years of the 2017-2022 Program, with one sale in 2017, two each in 2018-2021, and one in 2022.

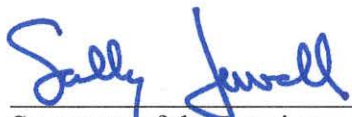
My approval includes adoption of the application, at the programmatic stage, of the two mitigation measures mentioned above, the Protection of Biologically Sensitive Underwater Features in the GOM and the Alaska Conflict Management Plan.

Moreover, I direct BOEM to analyze a seasonal restriction on seismic surveys and exploration drilling for Cook Inlet Lease Sale 258.

Attachments

Approved:  _____

Disapproved: _____


Secretary of the Interior

Date: JAN 17 2017

Attachments